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4 UNITED STATES DISTRICT COURT  
5 Northern District of California  
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7 SHANNON O. MURPHY,

8 Plaintiff(s),

No. C 09-03114 MEJ

9 v.

10 WORKERS COMPENSATION APPEALS  
11 BOARD,

**ORDER FOR CLERK OF COURT TO  
REASSIGN CASE**

**REPORT & RECOMMENDATION**

12 Defendant(s).  
13 \_\_\_\_\_/

14 On July 9, 2009, Plaintiff Shannon Murphy filed the above-captioned complaint, as well as  
15 an application to proceed in forma pauperis. On July 23, 2009, the Court ordered Plaintiff to either  
16 consent or decline magistrate jurisdiction by August 13, 2009. (Dkt. #4.) Because Plaintiff failed to  
17 comply with this deadline, the Court again ordered Plaintiff to consent or decline, with a new  
18 deadline of September 3, 2009. (Dkt. #5.) Plaintiff failed to respond. Based on Plaintiff's inaction,  
19 the Court ordered Plaintiff to show cause why this case should not be dismissed for failure to  
20 prosecute and comply with court deadlines. The Court ordered Plaintiff to file a declaration by  
21 October 1, 2009, and scheduled an order to show cause hearing on October 8, 2009. (Dkt. #6.)

22 On October 8, 2009, the Court held an order to show cause hearing. Plaintiff made no  
23 appearance at the hearing and failed to file a declaration by the October 1 deadline. Based on this  
24 procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of  
25 Civil Procedure 41(b). Under Rule 41(b), failure to comply with a court order can warrant  
26 dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). In “determining whether to  
27 dismiss a case for failure to comply with a court order, the district court must weigh five factors  
28 including ‘(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to  
manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring

1 disposition of cases on their merits; and (5) the availability of less drastic alternatives.” *Id.* at 1260-  
2 61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here, Plaintiff failed to  
3 comply with Court orders and deadlines, failed to respond to the order to show cause, failed to make  
4 an appearance at the osc hearing, and has made no appearance in this matter since filing the  
5 complaint. Thus, the Court finds that the *Ferdik* factors weigh in favor of dismissal.

6 Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court  
7 hereby ORDERS the Clerk of Court to reassign this case to a district court judge. The undersigned  
8 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure  
9 to comply with the Court's deadlines and orders.

10 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to  
11 this Report and Recommendation within 10 days after being served.

12 **IT IS SO ORDERED AND RECOMMENDED.**

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14 Dated: October 8, 2009

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16 Maria-Elena James  
17 Chief United States Magistrate Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

SHANNON O. MURPHY,

Case Number: 09-03114 MEJ

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

WORKERS COMPENSATION APPEALS  
BOARD,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 8, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Shannon O. Murphy  
General Delivery  
Richmond, CA 94530

Shannon O. Murphy  
General Delivery  
Richmond, CA 94801

Dated: October 8, 2009

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk